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Steven M. BESSETTE
Application No. 09/604,157

REMARKS/ARGUMENTS

Claim 12 is cancelled. Applicant reserves the right to file continuing applications for canceled subject matter. Claim 13 is amended and claims 20-22 are added to encompass infringing subject matter. No new matter has been added.

Applicant is grateful for the courtesies extended to him and the undersigned representative during the personal interview conducted on October 8, 2003. The substance and effect of the interview are incorporated in the above claim amendments and the Remarks below.

The Office Action rejects claim 2 under 35 U.S.C. § 102(b) as being anticipated by Yang (U.S. Patent No. 4,446,153). Claim 12 has been cancelled, thereby rendering this rejection moot.

Under the judicially created doctrine of obviousness-type double patenting, the Office Action provisionally rejects claim 12 over (1) claims 14-20 of copending Application No. 10/269,870 and (2) claims 1 and 5 of copending Application No. 09/505,680. Claim 12 has been cancelled, thereby rendering this rejection moot.

If anything further could be done to place the above-captioned patent application in better condition for allowance (i.e., via Examiner's Amendment), please contact the undersigned attorney at the telephone number below.

Adjustment date: 02/17/2004 SDIRETA1
10/17/2003 RHARMON 00000003 141140 09604157
01 FC:1252 420.00 CR

02/17/2004 SDIRETA1 00000003 141140 09604157
01 FC:2252 210.00 DA

PAGE 3/4 * RCVD AT 11/28/2003 2:19:32 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/1 * DNIS:8729306 * CSID:7038164100 * DURATION (mm-ss):00-48

Steven M. BESSETTE
Application No. 09/604,157

Please grant any extension of time deemed necessary. The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to Deposit Account No. 14-1140.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Willem F. Gadiano
Reg. No. 37,136

WFG:ewm
1100 North Glebe Road, 8th Floor
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Telephone: (703) 816-4057
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PAGE 4/4 * RCVD AT 11/28/2003 2:19:32 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/1 * DNIS:8729306 * CSID:7038164100 * DURATION (mm-ss):00-48

Nixon & Vanderhye P.C.

ATTORNEYS AT LAW

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February 10, 2004

VIA FACSIMILE

MAIL STOP 16
Director of the U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Subject: **REQUEST FOR REFUND TO DEPOSIT ACCOUNT**
Deposit Account No. **14-1140**
Statement Date: January 5, 2004
Date Posted: December 17, 2003
SEQ No.: 4
Fee Code: 1252
USPTO Ref.: 09/604,157
Our Ref.: 4380-98

To whom it may concern:

Regarding the Monthly Statement of Deposit Account dated January 5, 2004, (copy attached), we believe there is a fee related error therein, which has resulted in a charge to our Deposit Account that appears to be unwarranted. Please refer to the following explanation and issue a refund as soon as possible.

In a Response to the Office Action dated July 30, 2003 (copy attached), we authorized the Small Entity Extension of Time fee to be charged to our Deposit Account. The Two-Month Extension of Time fee actually charged to our Deposit Account for the above-referenced application, however, was incorrectly entered as "Large Entity" and a charge of $420.00 was assessed. The correct charge to the Deposit Account should be $210.00 (Two-Month Extension of Time fee for "Small Entity"). A prompt refund is respectfully requested for $210.00.

Thank you for your time and assistance, and if you have any questions, please do not hesitate to call me at the above number.

Very truly yours,

NIXON & VANDERHYE P.C.

By: _____
Willem F. Gadiano
Reg. No. 37,136

WFG:ewm
Enclosures

816386

Nixon & Vanderhye P.C.
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WRITER'S DIRECT DIAL NUMBER:
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ATTACHMENT/S:

1. Request for Refund to Deposit Account (1 page);
2. Copy of 1/5/04 Deposit Account Statement (2 pages); and
3. Copy of Response to Office Action filed 11/28/03 (4 pages).

MESSAGE: **PLEASE SEE ATTACHED.**

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Deposit Account Statement

12/16	14	10207794	MJS	1767-102	1201	$430.00	$19,951.98
12/16	15	10207794		1767-102	1202	$198.00	$19,753.98
12/16	42	09956940	MJW	1579-601	1806	$180.00	$19,573.98
12/16	60	10707468	MJK	839-1504	1001	$770.00	$18,803.98
12/16	213	09724908	MGN	723-987	1801	$770.00	$18,033.98
12/16	214	09724908		723-987	1202	$252.00	$17,781.98
12/16	215	09724908		723-987	1201	$172.00	$17,609.98
12/17	1	09328420	SCS	550-144	1253	$950.00	$16,659.98
12/17	3	10467929	ARC	2491-29	1615	$216.00	$16,443.98
12/17	4	09604157	4380-98 WTG		1252	$420.00	$16,023.98
12/18	2	10468079	ARC	117-469	2617	$65.00	$15,958.98
12/18	4	09585329	RWF	723-749	1251	$110.00	$15,848.98
12/18	94	09956940	MJW	1579-601	1806	$180.00	$15,668.98
12/18	255	10475261	ARC	4147-46	8021	$40.00	$15,628.98
12/19	65	09493258	RWF	723-824	1201	$688.00	$14,940.98
12/19	85	10067331	577-172 MJW		9204	-$55.00	$14,995.98
12/19	144	09722381	RWF	723-962	1201	$86.00	$14,909.98
12/19	145	09722381		723-962	1253	$950.00	$13,959.98
12/22	3	10275548	723-1350 JSP		9204	-$30.00	$13,989.98
12/23	9	10469601	ARC	613-77	1616	$280.00	$13,709.98
12/23	10	10469601		613-77	1615	$90.00	$13,619.98
12/24	5	10631965	4293-4 ARC		9204	-$450.00	$14,069.98
12/24	17	09453718	BJ	249-107	1202	-$54.00	$14,123.98
12/24	18	09453718		249-107	1251	-$110.00	$14,233.98
12/24	78	REPLENISHMENT			9204	-$10,000.00	$24,233.98
12/29	12	10631965	4293-4 ARC		2202	$90.00	$24,143.98
12/29	39	10139639	LSN	2635-110	1801	$770.00	$23,373.98
12/29	382	10468073	GRT	117-470	2617	$65.00	$23,308.98
12/30	1	10399326	ARC	117-447	1614	$172.00	$23,136.98
12/30	4	09604158	4380-102 WTG		2253	$475.00	$22,661.98
12/30	9	09501270	RWF	263-2063	1251	-$110.00	$22,771.98
12/30	14	76221103	3438-263 FPP		8521	$40.00	$22,731.98
12/31	1	10139639	LSN	2635-110	1460	$130.00	$22,601.98
12/31	51	09530732	LSN	36-1339	8001	$30.00	$22,571.98
12/31	164	1813505	*		6205	$100.00	$22,471.98
12/31	165	1813505	*		6201	$400.00	$22,071.98

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
$14,813.98	$14,333.00	$21,591.00	$22,071.98

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Deposit Account Statement

Requested Statement Month:	December 2003
Deposit Account Number:	141140
Name:	NIXON & VANDERHYE P.C.
Attention:	LENARD MITCHARD
Address:	1100 N GLEBE ROAD
City:	ARLINGTON
State:	VA
Zip:	22201-4714

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
12/01	4	10088026	124-933 MRL	1453	$1,330.00	$13,483.98
12/03	1	10041681	900-411 HWB	1251	$110.00	$13,373.98
12/03	3	10707271 MJK	839-1519	1001	$770.00	$12,603.98
12/03	3	10158135	1767-96	1251	$110.00	$12,493.98
12/03	4	10158135 MJK	1767-96	1202	$162.00	$12,331.98
12/03	5	10158135	1767-96	1201	$86.00	$12,245.98
12/03	86	10468282 LSN	36-1712	1611	$160.00	$12,085.98
12/04	9	09989104 JRL	2789-43	1501	$30.00	$12,055.98
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12/05	2	09899303 BJ	2551-109	9204	-$130.00	$12,099.98
12/05	7	09623681 SCS	540-231	1402	$10.00	$12,089.98
12/05	141	10725777 1201-97 ARL		9204	-$62.00	$12,151.98
12/08	4	10275548 723-1350 JSP		9204	-$130.00	$12,281.98
12/09	9	10423053 1579-808 AMD		9204	-$295.00	$12,576.98
12/10	1	09068151 LSN	36-1219	1251	$110.00	$12,466.98
12/11	1	10318182 4380-128 LSN	45112194	1251 *	$110.00	$12,356.98
12/11	2	09726224 MEN	723985	1202	$18.00	$12,338.98
12/11	79	10731094 LSN	2018-822	1202	$18.00	$12,320.98
12/12	47	10623769 ML	263-4475	1504	$300.00	$12,020.98
12/12	50	REPLENISHMENT		9204	-$10,000.00	$22,020.98
12/12	144	6572465 1207-88 RGB		1811	-$100.00	$22,120.98
12/15	1	10405235 MJS	4175-3	2201	$172.00	$21,948.98
12/15	2	10405235 MJS	4175-3	2202	$117.00	$21,831.98
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12/15	3	10405235 MJS	4175-3	1806	$180.00	$21,176.98
12/15	7	10469037 3687-54 ARL		9204	-$65.00	$21,241.98
12/15	189	09786721 BHD	2101-8	1801	$20.00	$21,221.98
12/16	1	09485529 MJW	620-91	1253	$840.00	$20,381.98

CERTIFICATE OF FACSIMILE TRANSMISSION

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Date: November 28, 2003

By: William F. Gadiano, Reg. No. 37,136

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Steven M. BESSETTE

Atty. Ref.: 4380-98

Serial No. 09/604,157

Group: 1616

Filed: June 27, 2000

Examiner: Levy, Neil S.

For: PESTICIDAL COMPOSITIONS CONTAINING PLANT ESSENTIAL OILS AGAINST TERMITES

* * * * * * * * * * *

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

AMENDMENT

Responsive to the Office Action dated July 30, 2003, please grant a two-month extension of time for entry of this communication. Please charge the extension of time fee to Deposit Account No. **14-1140**.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 3 of this paper.

Steven M. BESSETTE
Application No. 09/604,157